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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,962	09/26/2003	Pete M. Alvarado	TKG4172	7261
30245	7590	05/30/2006	EXAMINER	
ANTHONY EDW. J CAMPBELL			SLACK, NAKO N	
PO BOX 160370			ART UNIT	
AUSTIN, TX 78716			PAPER NUMBER	
			3635	

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,962

Applicant(s)

ALVARADO, PETE M.

Examiner

Naoko Slack

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 (lines 7-8) and claim 13 (lines 15-16), "said opposing end" lacks antecedent basis, as the top member has been defined with a plurality of opposing ends.

In claim 1 (lines 9-10) and claim 13 (lines 17-18), "said opposing end" lacks antecedent basis, as the second downward flange has been defined with a plurality of opposing ends.

In claim 1 (line 12) and claim 13, lines 19-20), "said opposing side" lacks antecedent basis, as the horizontal flange has been defined with a plurality of opposing sides.

The preamble of claim 19 states a combination with a cinderblock but does not state what is exactly claimed in combination with the cinderblock. The preamble could be corrected to state, "An anchor mounting bracket in combination with a cinderblock..." or similar terminology.

In claim 19 (lines 15-16), "said opposing side" lacks antecedent basis, as the second downward flange has been defined with a plurality of opposing sides.

Art Unit: 3635

In claim 19 (lines 17-18), "said opposing side" lacks antecedent basis, as the horizontal flange has been defined with a plurality of opposing sides.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US Patent 950,361 to Woods.

Claim 1:

Woods discloses an anchor mounting bracket (Figure 3) comprising a top member (topmost surface, Figure 3) with opposing ends, a first downward flange (2) with one side connected to one of the opposing sides of the top member, a second downward flange (1) having opposing ends with one end (top end) connected to an opposing end of the top member, a horizontal flange (bottom surface, Figure 3) having opposing sides with one side connected to an opposing end (lower end) of the second downward flange, a vertical flange (3) having opposing sides and a middle, with one of the opposing sides connected to the opposing side of the horizontal flange, a fastening hole (14) wherein the middle of the vertical flange defines a hole therein.

Art Unit: 3635

Claim 2:

Woods' mounting bracket is capable of fitting over a cinder block, as a cinder block comprises narrow outer walls.

Claim 3:

Woods' second downward flange, horizontal flange, and vertical flange are capable of receiving a 2 by 4.

Claim 4:

Woods' anchor mounting bracket is of one-piece construction.

Claim 5:

Wood's fastening hole (14) is capable of receiving nails or screws.

Claim 12:

Woods' mounting bracket is made of metal (column 1, line 37).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-10, 11, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 950,361 to Woods.

Claims 6-10:

While Woods does not specify the exact dimensions of the mounting bracket, dimensions of the bracket are a matter of obvious design choice as dictated by the supporting structure and the supported structure. Furthermore, applicant has not specified criticality of the claimed dimensions.

Claim 11:

Similarly, Woods does not specify the diameter of the fastening hole; however, the dimension of the hole is a matter of design choice dictated by the size of fastener required to support the load.

Claim 13:

Woods discloses an anchor mounting bracket (Figure 3) comprising a top member (topmost surface, Figure 3) with opposing ends, a first downward flange (2) with one side connected to one of the opposing sides of the top member, a second downward flange (1) having opposing ends with one end (top end) connected to an opposing end of the top member, a horizontal flange (bottom surface, Figure 3) having opposing sides with one side connected to an opposing end (lower end) of the second downward flange, a vertical flange (3) having opposing sides and a middle, with one of the opposing sides connected to the opposing side of the horizontal flange, a fastening hole (14) wherein the middle of the vertical flange defines a hole therein.

While Woods does not specify a plurality of fastening holes, it would have been a matter of obvious design choice to put more than one hole in the vertical flange to strengthen the connection of the 2 by 4 to the anchor bracket.

Claim 14:

Woods' anchor mounting bracket is of one-piece construction.

Claim 15:

Woods' second downward flange, horizontal flange, and vertical flange are capable of mounting a pair of adjacent 2 by 4s.

Claim 16:

Woods' mounting bracket is capable of fitting over a cinder block, as a cinder block comprises narrow outer walls.

Claim 17:

While Woods does not specify the thickness of the mounting bracket, the thickness is considered a matter of obvious design choice as dictated by the strength required to support the supported structure.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 950,361 to Woods as applied to claim 13 above, and further in view of US Patent 5,009,051 to Trezza.

Claim 18:

While Woods discloses that the anchor bracket is made of metal, Woods does not disclose that the bracket is made of polyethylene. However, brackets using polyethylene are known in the art. For example, Trezza discloses a bracket comprising polyethylene (column 5, lines 46-51). It would have been obvious to one of ordinary skill

Art Unit: 3635

in the art at the time the invention was made to form Woods' bracket of polyethylene for improved weather resistance, as it is well known that metals brackets are prone to rust.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose current telephone number is 571-272-6848. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naoko Slack
Primary Examiner
Art Unit 3635

NS
May 25, 2006